

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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JADEEN RICHARDS and T.B.,

Plaintiffs,

MEMORANDUM & ORDER

24-CV-2702 (EK) (TAM)

-against-

MS. SHARNETTE, MS. ALICIA, YEKATERINA
KONYAYEZ, and STEPS TO
SUCCESS/BROWNSVILLE PRE-SCHOOL,

Defendants.

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ERIC KOMITEE, United States District Judge:

Plaintiff Jadeen Richards filed this civil action in April 2024. Compl., ECF No. 1. Proceeding *pro se*, she names herself and her son, T.B., as plaintiffs. *Id.* at 1. She does not specify any federal or state cause of action by name. But she alleges that her son suffered serious injuries at his preschool, Steps to Success, in Brooklyn. *Id.* at 2. She names the school as a defendant along with certain teachers and administrators. *Id.* Richards' request to proceed *in forma pauperis* pursuant to 28 U.S.C. § 1915 is granted. ECF No. 2. For the reasons set forth below, however, the complaint is dismissed.

I. Background

Richards alleges that when she picked her son up from school on January 11, 2023, he was missing a tooth, his lip was

"busted," and his mouth was bleeding. Compl. at 4. When she asked a school administrator what happened, the administrator responded that she "didn't know" and that Ms. Richards should speak with T.B.'s teachers. *Id.* The teachers informed Richards that T.B. "fell," but failed to provide details or explain why nobody contacted T.B.'s parents. *Id.*

Richards seeks financial compensation for her son's dental treatment and counseling, and for counseling for herself "because this situation has caused stress to my situation as well." *Id.* at 6.

II. Legal Standard

A complaint must plead "enough facts to state a claim to relief that is plausible on its face," *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 570 (2007), and "allow[] the court to draw the reasonable inference that the defendant is liable for the misconduct alleged." *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009).¹ At the pleading stage of the proceeding, the court must assume the truth of "all well-pleaded, nonconclusory factual allegations" in the complaint. *Kiobel v. Royal Dutch Petroleum Co.*, 621 F.3d 111, 123 (2d Cir. 2010). But the court need not accept as true "legal conclusions." *Iqbal*, 556 U.S. at 678.

¹ Unless otherwise noted, when quoting judicial decisions this order accepts all alterations and omits all citations, footnotes, and internal quotation marks.

A *pro se* complaint is to be liberally construed, and "must be held to less stringent standards than formal pleadings drafted by lawyers." *Ceara v. Deacon*, 916 F.3d 208, 213 (2d Cir. 2019). Still, a *pro se* plaintiff is not exempt from "compliance with relevant rules of procedural and substantive law." *Traguth v. Zuck*, 710 F.2d 90, 95 (2d Cir. 1983).

A district court shall dismiss an *in forma pauperis* action where it is satisfied that the action "(i) is frivolous or malicious; (ii) fails to state a claim on which relief may be granted; or (iii) seeks monetary relief against a defendant who is immune from such relief." 28 U.S.C. §§ 1915(e) (2) (B).

III. Discussion

Federal district courts are courts of limited jurisdiction. *Durant, Nichols, Houston, Hodgson & Cortese-Costa P.C. v. Dupont*, 565 F.3d 56, 62-62 (2d Cir. 2009). If subject-matter jurisdiction is lacking, "dismissal is mandatory," as the court is without power to decide the case. *United Food & Commercial Workers Union v. CenterMark Props. Meriden Square, Inc.*, 30 F.3d 298, 301 (2d Cir. 1994). Congress has granted two types of subject-matter jurisdiction: (1) diversity jurisdiction, under 28 U.S.C. § 1332, over "certain cases between citizens of different states, so long as the requirements of complete diversity and amount in controversy are met"; and (2) federal question jurisdiction, under 28 U.S.C.

§ 1331, over claims based on federal law. *Purdue Pharma L.P. v. Kentucky*, 704 F.3d 208, 213 (2d Cir. 2013).

At the outset, Richards cannot represent her child in this suit. A “non-attorney parent must be represented by counsel in bringing an action on behalf of his or her child.” *Cheung v. Youth Orchestra Found. of Buffalo, Inc.*, 906 F.2d 59, 61 (2d Cir. 1990). Complaints brought by a non-attorney parent on behalf of her child “should be dismissed.” *Id.* at 61.

Furthermore, Richards has failed to establish that this Court has subject-matter jurisdiction over her and T.B.’s claims. She has not established diversity; on the contrary, she alleges that all parties reside in Brooklyn. Compl. at 2-3. And even liberally construed, the complaint asserts no federal claim; there is no indication, for example, of state action sufficient to sustain a claim under 42 U.S.C. § 1983. See *Brentwood Acad. v. Tennessee Secondary Sch. Athletic Ass’n*, 531 U.S. 288, 296 (2001) (explaining that “constitutional standards are invoked” only “when it can be said that the “State is responsible for the specific conduct of which the plaintiff complains”).

IV. Conclusion

The complaint is dismissed without prejudice for lack of subject-matter jurisdiction. The Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that any appeal would not be taken in

good faith and therefore *in forma pauperis* status is denied for purpose of an appeal. See *Coppedge v. United States*, 369 U.S. 438, 444-45 (1962).

The Clerk of Court is respectfully directed to enter judgment, mail a copy of this Order to the plaintiff, and close this case.

SO ORDERED.

/s/ Eric Komitee
ERIC KOMITEE
United States District Judge

Dated: August 13, 2024
Brooklyn, New York